

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**July 12, 2005**

**IN RE:**

**PETITION TO AMEND CARTWRIGHT CREEK'S  
CCN AND PETITION TO INTERVENE IN  
TENNESSEE WASTEWATER SYSTEMS, INC.'S  
PETITION TO AMEND CCN**

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**DOCKET NO. 04-00358**

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**ORDER APPROVING PETITION TO AMEND  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

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This matter came before Director Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket ("Panel"), at a Hearing held on January 10, 2005, to consider the *Petition to Amend Cartwright Creek's Certificate of Convenience and Necessity* (the "*Petition*") requesting that the Authority expand the service territory to include a planned growth area of Williamson County, Tennessee, commonly known as "PGA 5."

**Legal Standard for Granting Certificate of Public Convenience and Necessity**

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Tennessee Regulatory Authority ("Authority" or "TRA"). The procedure for obtaining a certificate of convenience and necessity ("CCN") evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a) (2004), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service

therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . . .

## **Background**

In March 1975, the Tennessee Public Service Commission granted Cartwright Creek Utility Company, Inc. (“Cartwright Utility Co.”) the authority to provide wastewater services in Tennessee.<sup>1</sup> Following certification, Cartwright Utility Co. operated a wastewater treatment facility in the 7<sup>th</sup> Civil District of Williamson County, Tennessee.

On September 22, 2004, Cartwright Utility Co., together with Cartwright Creek, LLC (“Cartwright Creek” or “Cartwright”), filed a *Petition to Transfer Authority to Provide Utility Services* requesting that the TRA approve a transfer from Cartwright Utility Co. to Cartwright Creek of the authority to provide wastewater utility services in Tennessee. The TRA approved the transfer on November 8, 2004.<sup>2</sup>

## **The Petition:**

On October 15, 2004, Cartwright Creek filed its *Petition* seeking approval to expand its authorized wastewater service area to include the PGA 5 area.<sup>3</sup> Maps showing the proposed expansion to PGA 5 were attached to the *Petition* as Exhibit 1.

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<sup>1</sup> Due to the significant number of years that have passed since the issuance of this CCN, neither Cartwright Utility Co. nor the TRA has been able to locate a copy of the document. Later orders and docket filings reflect and confirm the CCN issuance date and service authorization.

<sup>2</sup> See *In re Petition for Approval to Transfer Cartwright Creek Utility Company, Inc.’s Authority to Provide Wastewater Utility Services to Cartwright Creek, LLC* (“Cartwright Transfer Docket”), Docket No. 04-00307, *Order Approving Transfer of Authority* (December 10, 2004).

<sup>3</sup> Cartwright included a *Petition to Intervene in Tennessee Wastewater Systems, Inc.’s Petition to Amend Certificate of Convenience and Necessity* within its October 15, 2004 filing but withdrew it from this Docket on November 5, 2005.

Cartwright Creek reported that it would provide service to approximately two hundred twenty-five customers (225) in the initial stages of the expansion and, according to its projections, more than two thousand (2,000) after completion. Cartwright affirmed that it would charge its approved tariff rates in the new development.<sup>4</sup> The TRA previously approved the following rates for Cartwright Creek:<sup>5</sup>

|                | Residential:  | Non-Residential:  |
|----------------|---|---|
| Tap Fees:      | \$2,750.00  | \$7.86 charge per gallon per day (Computed by multiplying peak monthly usage during the first year by 12 divided by 365 days) |
| Sewer Service: | 1-bedroom - \$20.35<br>2 bedroom - \$25.71<br>3 bedroom - \$29.99<br>4-bedroom - \$34.82<br>5 bedroom - \$39.10 | \$3.31 per 1,000 gallons per month (actual or assumed flow) (\$6.00 minimum monthly charge)                                   |

According to Cartwright Creek, PGA 5 was not located within the boundaries of any municipality, and no municipal utility, utility district or other private wastewater utility was providing wastewater service in the area. PGA 5, located in Williamson County, received water service from the Nolensville/College Grove Utility District ("Utility District"), which did not provide wastewater services.

Cartwright submitted letters from Williamson County and the Utility District in support of its *Petition*. In a letter dated December 5, 2003, Rogers Anderson, County Mayor for Williamson County, stated his conclusion that the public convenience and necessity required sewer service in the PGA 5 area and that Cartwright should be granted a certificate.<sup>6</sup> By letter dated January 2, 2004, the Utility District, through its attorney, confirmed that the Utility District

<sup>4</sup> See *Data Response*, Ex B (Pre-Filed Testimony of Robert Ian Cochrane), p 7 (December 17, 2004).

<sup>5</sup> See Cartwright Transfer Docket, Affidavit of T Chad White and Tariff (February 15, 2005), Cartwright Transfer Docket, Replacement Page 2 for Page 2 of the Tariff Filed on 2/15/05 (February 22, 2005)

<sup>6</sup> *Petition*, Ex 2 (October 15, 2004)

did not intend to provide sewer service to PGA 5 and did not object to Cartwright Creek expanding into the area.<sup>7</sup>

On November 30, 2005, Cartwright Creek submitted an *Amendment to Petition to Amend Cartwright Creek's CCN*. The filing included financial statements and related information. According to Cartwright, the materials supported its *Petition* by showing its financial responsibility and ability to efficiently and effectively provide wastewater utility services to the PGA 5 area.

### **The January 10, 2005 Hearing**

Pursuant to Tenn. Code Ann. § 65-4-201(a) (2004), the Authority issued public notice of the Hearing in this matter on December 30, 2004. No persons sought intervention prior to or during the Hearing. At the Hearing held on January 10, 2005, Mr. Robert Cochrane, chief financial officer of Cartwright Creek and of its majority member, Sheaffer International, and Mr. John Sheaffer, chief operations officer of Cartwright and Sheaffer International, presented testimony and were subject to examination by the Panel. Mr. T. Chad White, of Tune, Entekin and White, P.C., appeared on behalf of Cartwright Creek. Upon the presentation of Cartwright's proof in this case, the evidentiary record as a whole, and in light of the legal standard set forth in Tenn. Code Ann. § 65-4-201(a) (2004), the Panel voted unanimously to approve Cartwright Creek's *Petition*.

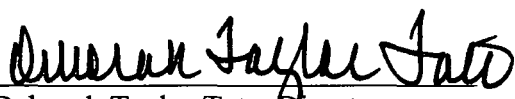
### **IT IS THEREFORE ORDERED THAT:**

1. The *Petition to Amend Cartwright Creek's Certificate of Convenience and Necessity* to expand its service area to include the planned growth area known as PGA 5, as shown in the maps attached to the *Petition*, is approved.

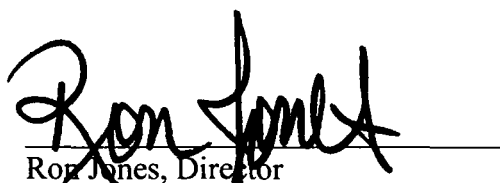
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<sup>7</sup> *Id*

2. Cartwright Creek's rates for wastewater service within PGA 5 shall be in compliance with the existing tariff rates previously approved by the Authority for Cartwright Creek and as set forth in this Order.

  
Deborah Taylor Tate, Director

  
Sara Kyle, Director

  
Ron Jones, Director